

Remarks

Claims 1-20 are pending. All pending claims stand rejected by the Examiner.

Applicant has canceled claim 2 and amended dependent claims 3, 5-7 and 12 (which originally depended from claim 2) to now depend from claim 1. Applicant has also amended claim 1 to incorporate the flexible and resilient element of claim 3 into claim 1 and to more clearly state that the claim is directed to an electrode configured to be flexible and resilient. Similarly, claims 19-20 have been amended to include flexible and resilient electrode means. Applicant argues the reasons for patentability of amended claims 1 and 19 in more detail below. Claims 4-9 have also been amended to conform the language of these claims to claim 1. Support for these amendments are found in the claims and specification as a whole and, for example, original claim 3 and paragraphs [0083-84] of the specification as published on January 6, 2005.

Claim 3 has been amended to add a flexible and resilient shaping element to claim 1. Support for this amendment is found in the specification as a whole and, for example, paragraphs [0060], [0084] and [0090] of the specification. No new matter enters through these amendments to the claims.

Rejections based on Kordis

Claims 1-20 stand rejected as anticipated by Kordis.

In the first Office action, the Examiner alleged that, regarding claim 3, Kordis disclosed "at least one electrode compris[ing] at least one flexible and resilient (column 6, lines 9-11) electrode strand (elements 22, 92 and 96)". (Current Office action at page 2). Applicant respectfully disagreed, arguing that the flexible and resilient "spline elements" of Kordis were completely distinct from its alleged *electrode* structure which was not, in fact, flexible and resilient.

In the final Office action dated August 7, 2007, the Examiner does not appear to dispute Applicant's argument that Kordis does not teach or suggest flexible and resilient

electrodes. Rather, the Examiner has sustained the rejection of claims 3, and 7-9 by giving "the term 'electrode strand' its broadest possible meaning . . . [interpreting] 'electrode strand' to be a strand which supports or is associated with electrodes." Office action at page 8). Accordingly, Applicant has amended claim 1 to make clear that the at least one *electrode* is configured to be flexible and resilient, as opposed to any other structure that supports or is associated with the electrode.

The Examiner seems to have implicitly recognized this limitation of Kordis by citing Section B from the specification, "The Electrode Assembly":

"The electrode bands 96 and associated electrical connections ***bend virtually without generating stress*** during handling, manipulation, and use." (col. 12, lines 54-56).

Since bending the electrode bands does not generate stress, it necessarily follows that the electrode bands cannot generate the stress that is necessary to return the bands to their unbent configuration – which is the definition of resilience. Thus, the Examiner cites precisely the passage in Kordis that confirms the lack of resiliency in the electrode. The resilience in Kordis is found in the spline elements, not the electrodes, and thus, amended claim 1 clearly distinguishes over Kordis, and is therefore, allowable over the prior art. Accordingly, the claims that depend from claim 1 (claims 3-18) are allowable for at least the same reasons.

Similarly, applicant has amended claims 19 and 20 to recite that the electrode means is flexible *and resilient*. For at least the reasons recited above, Kordis does not teach or suggest a flexible and resilient electrode means and therefore claims 19 and 20 are patentable for at least the same reasons as claim 1.

Applicant's amendments are fully supported by the specification which recites that the configuration of the electrode itself, whether from the saw tooth pattern of the electrode or the resilient and elastic material that otherwise forms the electrode, allows the electrode to assist (or resist) curving forces introduced by other elements. (See Paragraphs [0083-84] of the specification as published).

Application No: 10/613,794
Response to Office action dated August 7, 2007
Reply and Amendment of October 9, 2007

Applicant has further amended claim 3 to include a flexible and resilient shaping element. Kordis does not teach or suggest a catheter having both a flexible and resilient electrode and a flexible and resilient shaping element that work together (or in opposition) to shape the catheter. For at least this additional reason, claim 3 is allowable over the prior art.

Claims 17-18 stand rejected in the alternative as obvious over Kordis. Claims 17-18 ultimately depend from claim 1 and are therefore patentable for at least the same reasons as argued above.

Conclusion

Applicant has fully responded to the Office action and submits that the application is in condition for allowance. Timely notification of allowability is requested.

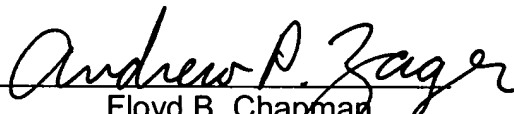
Application No: 10/613,794
Response to Office action dated August 7, 2007
Reply and Amendment of October 9, 2007

Applicant believes that this response is timely filed within 2 months of the final Office action and respectfully requests prompt reconsideration and an Advisory Action. No additional fees, other petitions, additional claim fees, or any other fees are believed to be necessary to enter and consider this paper. If, however, any further extensions of time are required or any fees are due in order to enter or consider this paper or enter or consider any paper accompanying this paper, including fees for net addition of claims, Applicant hereby requests any extensions or petitions necessary and the Commissioner is hereby authorized to charge our Deposit Account No. 50-1129 for any fees. If there is any variance between the fee submitted and any fee required, or if the payment or fee payment information has been misplaced or is somehow insufficient to provide payment, the Commissioner is hereby authorized to charge or credit Deposit Account No. 50-1129.

Respectfully submitted,

WILEY REIN LLP

Date: October 9, 2007

By: 
Floyd B. Chapman
Registration No. 40,555
Andrew P. Zager
Registration No. 48,058

WILEY REIN LLP
Attn: Patent Administration
1776 K Street, N.W.
Washington, D.C. 20006
Telephone: 202.719.7000
Facsimile: 202.719.7049